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INSPECTOR GENERAL

September 2009

To: George Cannelos, Federal Co-Chair

From: Mike Marsh, CPA, MPA, CFE, Esq., Inspector General

FINAL REPORT

FOR PUBLIC RELEASE

Subject: Inspection of Port Graham police and fire station
(grant no. 94-DC-2003-I9, state sub-award no. 84-0843)

Congress provided two appropriations to the Denali Commission for "multi-purpose community facilities." Denali passed this money on to Alaska's state government as grant #94-DC-2003-I9 for \$7.3 million. In July 2009, Denali formally closed out this grant.

The state government issued sub-awards for 12 projects across Alaska. One of these projects was a \$765,000 sub-award to construct a police and fire station in the tiny, unincorporated settlement of Port Graham (pop. \approx 135). In August 2009, the Office of Inspector (OIG) conducted an inspection of the resulting facility.

The purpose of this inspection was to evaluate (1) the result's consistency with the grant agreement and (2) the state's process for monitoring its sub-award. Though Denali no longer issues grants for such "multi-purpose" (or "multi-use") facilities, we noted some lessons worth considering in its continuing programs.

PROJECT'S CONTEXT

Port Graham is a small coastal settlement (pop. \approx 135) south of Anchorage. Access is mainly by small planes (hourly scheduled air service by two carriers) that cross about 30 miles of water to connect with the state highway system at Homer, Alaska.

Port Graham is not incorporated as a city. Rather, the settlement has a tribal government. Less than half of the 300 members of the Port Graham tribe currently live there. The tribe's 2008 financial statements list 12 types of federal grants.

There is a publicly-funded school (14 students, 2 teachers) and a state-maintained gravel airstrip. An aerial photo shows around 70 homes that are clustered within several blocks of the airstrip. There are 72 post office boxes in the little contract post office. The phone book has 66 listings. There is Internet access but no cell phone coverage.

In 2003, Denali awarded a grant of \$765,000 for the tribal government to construct a new building (3,600 square-feet) that would house the local police station and volunteer fire department. The building opened in May 2005.

More technically, Denali provided its funding to the State of Alaska which then administered the tribal government's project as a state sub-award. Denali paid the state \$15,300 to administer this sub-award. The tribal government matched Denali's grant with around \$84,000 plus the underlying land.

WHY WE INSPECTED THIS PROJECT

In July 2009, Denali formally closed out grant no. 94-DC-2003-I9 for "multi-purpose" (or "multi-use") buildings constructed around the state.

Denali's experiment with "multi-purpose" (or "multi-use") buildings has been a controversial program in the agency's short history of only a decade. In 2007, Denali's CFO notified OIG that she was suspending grant no. 94-DC-2003-I9 to the State of Alaska. The CFO's letter to the state government indicated the following reasons for this administrative action:

The reasons for the suspension of funds are due to lateness of financial reporting, inaccuracy of financial reporting, no submissions of quarterly estimates, expenses for grants being charged to other grants, inaccuracy on cash versus accrual on financial reports, and inconsistent information from financial versus program staff at [state's department].

The CFO further notified OIG that construction of the buildings for at least two of the 12 locations had been started but never completed.

In fact, this was only one of seven grants to the State of Alaska that Denali's CFO suspended. While she has the authority to do this under the grant agreements, it seemed to OIG to be an atypical scenario in federal-state relations.

OIG recommended that Denali's CFO contract with a federal franchise firm's internal auditor to assist her staff in reviewing the state's accounting procedures for grant no. 94-DC-2003-I9. In March 2009, this internal auditor issued a brief report to the CFO.¹ His sample included four of the funded multi-use facilities, but not the one at Port Graham. He did not attempt to physically inspect any of the facilities, but he noted aspects of the state's monitoring practices which OIG felt warranted further review.

Denali's management also contracted with a local 8(a) corporation for a program evaluation of multi-use facilities. The firm employed a well-respected university researcher, who looked in depth at four facilities that were successfully completed (but not the one at Port Graham) and

¹ OIG has reviewed this internal auditor's workpapers. We see no reason to duplicate his fieldwork in Juneau concerning the state's bookkeeping procedures for recording Denali funding in the state's accounting system. Rather, OIG has focused on the state's project monitoring records in Fairbanks and visited the facility itself in Port Graham.

issued broad advice for the future.² OIG's recent inspections involved different facilities and a more focused look at some specific state monitoring issues.

HOW WE REVIEWED THIS PROJECT

The state monitored this grant from its office in Fairbanks. OIG reviewed the file maintained there for the Port Graham sub-award (which was approximately 200 pages of paper). OIG appears to be the first federal official that has examined this state monitoring file. The state's grant manager answered our questions concerning these records.

OIG visited Port Graham and compared the funded facility to the architect's floor plan, the sub-award's terms, and the photos submitted with progress reports. OIG's visit appears to be the first time that any Denali official has inspected the new police and fire station.

To understand the context of the inspected facility, we briefly visited other local facilities while in Port Graham: clinic, community center, fish cannery, residential treatment center (tsunami evacuation point), barge dock, post office, museum, church, cemetery, and airstrip. Denali had previously funded a photo-based map of Port Graham (and numerous other rural settlements) that OIG found helpful in efficiently planning this part of the visit.³

And, last but not least, we appreciated our cordial discussions with Port Graham's tribal chief, fire chief, clinic staff, postmaster, and lead teacher — as well as the helpful information we received from staff of the state troopers, state fire marshal, and Chugachmiut Inc.

However, it's important for readers to recognize that a project "inspection," such as this one, is narrower in scope and procedures than the classic financial "audit." One prominent originator of this type of inspector general review described it as follows:

*The idea is to prevent problems before they occur and to avoid vulnerabilities from becoming permanent features of programs. We usually initiate these reviews ourselves, but sometimes senior program managers request that we find out what is happening as grantees or government agencies struggle with the complex tasks of starting a new program — what seems to be working, what is not, what barriers grantees are facing, what, if anything, any of them have been able to do about problems which arise, what innovative practices grantees are experimenting with, and whether and how they are measuring progress, etc. . . .*⁴

Our review was conducted in accordance with section 2 of Denali's standard grant assurances, sections 4(a) and 6(a) of the Inspector General Act, and the *Quality Standards for Inspections* issued by the federal Executive Council on Integrity and Efficiency.

² NANA Pacific, *Multi-Use Facility Program Evaluation*, April 30, 2008.

³ Denali grant no. 74-DC-2002-I27. These maps are publicly available online at www.commerce.state.ak.us/dca/profiles/profile-maps.htm.

⁴ George F. Grob, "Inspections and Evaluations: Looking Back, and Forward Too," *Journal of Public Inquiry* (spring/summer 2004), page 11.

The agency head was provided a draft of this report. He informally provided us with his thoughtful feedback by email, and we carefully considered his comments before publication.

CONCLUSIONS

The building was successfully completed

We found in our inspection that construction of the building was successfully completed consistent with the architect's floor plan, the sub-award's terms, and the photos submitted with progress reports.

Construction was completed in 2005. We have some concerns about the building's current use that we discuss below.

The projected need for this building in little Port Graham was based on predictions in the grant application that didn't materialize. The town's economic core has long been its fish cannery. The tribe incorrectly assumed that its modern \$4.5 million replacement plant (\approx 15,000 square feet) would reopen and result in a population increase. Instead the cannery has been idle since 2001, the population has fallen to around 135, and the school now has only 14 students for its five classrooms. (Ten students is the critical threshold for continued state funding.) In fact, less than half of the 300 members of the Port Graham tribe now live there.

Use as a police station has not materialized

An architect designed the tribe a classic American small-town police and fire station. A fourth of the two-story building was designed for a police department, complete with plumbed jail cell, evidence room, firearms storage, cuff bar, investigative record-keeping, and computer work stations with Internet access.

The 2003 grant application asserted that there would be three users for a Denali-funded police station: (1) Alaska State Troopers on routine patrol, (2) a local law enforcement official known as a VPSO (trained and supervised by the troopers), and (3) a tribal employee known as a VPO (limited duties under Alaska law).

The Alaska State Troopers are the lead police presence in rural Alaska. We consulted that agency's management and the state trooper that has been assigned to Port Graham calls since 2003. The troopers have never used the Denali-funded police station. The assigned trooper periodically calls on Port Graham, and he then stays overnight there on his patrol boat that he ties up to the dock. He was unaware that the tribe even had a police station. And the troopers' database shows that they have had to visit Port Graham less than 20 times over the years since the building was completed back in 2005.

The state trooper who visits Port Graham also has the responsibility for oversight of any VPSOs that tribes establish in his service area. The trooper indicates that Port Graham has not had a VPSO in the years since the new police station opened. In fact, the perception of the Alaska State Troopers is that the tribe has not had any local law enforcement in those years.

We also consulted the tribal chief, the Chugachmiut corporation (who funds tribes' VPSOs), and the local VPO at the time of the tribe's 2003 grant application (who left before the new police station opened). It appears that a VPSO candidate used the station as his office for some months in 2008, but left before he was able to complete the required training at the state's VPSO academy. This anecdote seems to be the closest that the tribe has come so far to use as a police station.

All of this is consistent with our inspection observations that the space in question seemed in use for storage rather than daily activity as a police station. It is also consistent with the tribe's aspirations to police itself through traditional social sanctions (tribal court, education, respected chief) rather than Western criminal procedures (arrest, booking, custody).

Alaska law conditions state funding for a local VPSO on the community's provision of "*a place to temporarily hold individuals under arrest.*"⁵ However, the plumbed jail cell in the new police station has never been used. The tribal chief recognizes that it would be legally problematic to leave a prisoner in an isolated building unless a trained jailer was present. Any confinement of a juvenile would be especially sensitive. In fact, the rationale for including this feature in the application seems uncertain given the existence of a secure room in the clinic and the short flight distance to Homer and Seldovia.

Recommendation: Denali should consult the Alaska State Troopers prior to funding construction of a rural police station. Denali could request to accompany the area's trooper on a patrol shift to better understand the context of the requested facility. Just as Denali reviews the staffing capacity for proposed clinics, any applications that involve local jail cells should consider the personnel needed to assure prisoner safety.

Extent of use as a fire station is uncertain

The extent of use as a fire station (including EMTs) was more difficult for us to assess.

We note again that the architect designed the tribe a classic American small-town police and fire station. Three-fourths of the 3,600 square-foot building was designed to serve as the fire station (including EMTs) with a four-vehicle garage, three training areas, a kitchen, and 200 square feet of office space dedicated to "fire prevention."

During our inspection, we observed that the office areas largely appeared to be either unused or dedicated to long-term storage (piles) of items not routinely accessed. The four garage bays were occupied by a small pumper truck needing repairs, a small truck converted to carry a gurney, and a four-wheeler.

Port Graham is understandably sensitive to fire risks. Its fish cannery has dominated the settlement for a century, and that major structure was destroyed by fire in both the 1960s and 1990s. However, fire calls appear to be quite rare in Port Graham. Records kept by the state fire marshal report only two fires in Port Graham since 2000 (one chimney fire and one building fire,

⁵ See 13 AAC 96.040(a)(1)(C).

with total estimated loss of only \$5,000). Both the tribal chief and the fire chief estimate that the 20 volunteers with their aging pumper truck respond to an actual fire call every year or two.

The tribe's clinic is operated by Chugachmiut Inc. We contacted the latter but were unable to determine the number of actual EMT runs with an ambulance, versus overall service calls associated with the clinic. However, the need for ambulance runs is probably limited to some degree by the settlement's compact geography. Almost all residents of tiny Port Graham live within 700 feet of its runway, and the clinic itself lies abeam the runway's southern third. Hourly scheduled air service from two air carriers connects the settlement in 30 minutes with Homer's regional hospital, or at least the physician-staffed clinic at Seldovia (8 miles east of Port Graham). (In fact, during the course of OIG's brief visit, one emergency medevac patient flew out to the Homer hospital for treatment and then back home to Port Graham before we departed.)

OIG does not question the community spirit of the tribal leaders and their volunteer firefighters and rescuers. Local anecdotes indicate that the dedicated group has over the years engaged in significant services, including night aerial medevacs, sea rescue, missing person searches, school presentations, house-to-house safety briefings, and transportation of patients to the clinic. There is also anecdotal support that some EMT training has occurred in the new building since it opened in 2005.

Nevertheless, we left the new building with an overall impression that it currently functions more as a tribal warehouse than as a fire station in active daily use.

Recommendation: Denali should consult the state fire marshal prior to funding construction of a rural fire station.

The state's monitoring was quite limited for its \$15,300 charge to Denali

Congress attached no specific monitoring conditions to its appropriations for this purpose. Denali's grant to the state incorporated OMB's standard grant circulars by reference, since Denali has never issued grant regulations of its own in the Code of Federal Regulations. In the grant agreement, Denali required that the state submit quarterly progress reports for each project plus periodic photos taken by the sub-awardees.

Port Graham's tribal government submitted 11 progress narratives to the state, including 25 photos.⁶ The state then electronically submitted progress reports to Denali for six successive quarters. And the state charged Denali \$15,300 for administration of Port Graham's sub-award.

The state's "job description" was defined by the very limited expectations that Denali specified in its grant agreement. Though the state was paid \$15,300 to administer Port Graham's sub-award, five of the following six monitoring safeguards were simply not included in what Denali required the state to do.

⁶ These photos appear within the public database portion of Denali's website at www.denali.gov.

1. Missing from the monitoring: appraisal for contributed land

A key monitoring safeguard is the grant administrator's verification of the matching contribution promised by the grantee.

Denali's funding for Port Graham was conditioned on the tribe's commitment to provide a cash match of at least \$75,000 plus the underlying land which the tribe asserted was worth \$10,000. Denali's grant to the state allowed contributed land as local match, but it was silent as to how the land's value was to be documented.

To protect all concerned, federal agencies commonly require that the value of contributed land be set by an independent professional with credentials as a certified real estate appraiser. The essence of the appraiser's service is to select a series of "comparables" that collectively enable a professional opinion on the examined tract.

For instance, USDA grants to tribes are covered by this regulation:⁷

If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. . . . [T]he Federal agency may require the market value or fair rental value be set by an independent appraiser, and that the value or rate be certified by the grantee. This requirement will also be imposed by the grantee on subgrantees.

Similarly, a uniform OMB rule⁸ provides the following for grants to universities, hospitals, and nonprofits:

The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

However, Denali's grant conditions didn't require an appraisal of the contributed land — and the state didn't require the tribe to get one. Instead, the state accepted the tribe's assertion of \$10,000 value based on submission of an appraiser's opinion done four years earlier for a different lot in a different town. This shortcut of convenience diluted the basic professional assumptions, and public reassurance, of the independent appraisal process.

Beyond this, we note that the funded building of 3,600 square-feet is just one of several tribal facilities spread around a much-larger lot of approximately 70,000 square feet. Given this complexity in the allocation of value, public confidence in the tribe's match would have been promoted by asking a public agency (such as BIA) or a private appraiser to do an original appraisal through the usual professional process.

⁷ See 7 CFR 3016.24(f), (g).

⁸ See 2 CFR 215.23(h)(1).

Given the brief hourly flights between Homer and Port Graham, a professional appraisal of the contributed land would have been a reasonable expectation within the \$15,300 that the state charged Denali for administration of Port Graham's sub-award.

Recommendation: Denali should include a grant condition that requires the value of contributed land to be established by an independent real estate appraiser. Denali may wish to follow the approach of other federal agencies and issue a grants management "common rule" in the Code of Federal Regulations.⁹ Like other agencies, Denali could also issue its own "compliance supplement" with expected steps for a grant's audit under OMB Circular A-133.

2. Missing from the monitoring: review of major contract

A key monitoring safeguard is the grant administrator's review of grantee contracts that will document major payments to vendors. For Port Graham's project, the state and the tribe agreed that the grant administrator would dispense Denali's entire grant as direct payments to the construction contractor. The project budget showed a "contractual" line that included the entire \$765,000 of Denali funding.

Denali's grant to the state didn't require the grant administrator to review the terms of this construction contract — and she didn't attempt to do it. But the state's silence concerning the terms of this major contract came back to haunt its monitoring when a billing dispute between the contractor and the grant administrator escalated into an acrimonious work stoppage. The state's letter describes the serious misunderstanding as to who had to provide what to whom to get a progress payment from the state system:

I was contacted by our fiscal department who were working on getting [the contractor] paid, but needed more information on the invoices as they were not adequate invoices per their standards and regulations to make the payment. . . The owner mentioned to this person he would be "shutting down the project" until these invoices were paid. . . [We] have been unsuccessful with [the contractor] in getting what we need to pay them, which is a more detailed invoice of services completed.

I am attaching a copy of the Department's state requirements and what should be on a vendor's invoice when the Grantee is requesting for the Department to pay the vendor directly. . . Although our office paid the previous request of \$119,205.00, at that time our fiscal department was short staffed, and the lack of information on [the contractor's] invoice was not caught. This has been corrected and the requirements on these newer invoices do need to be added in order for our Department to make the payments to [the contractor].

The contractor stopped working, and the state stopped paying. This impasse resulted from a lack of coordination between the tribal and state governments. It could have been prevented by a contract provision that detailed the mechanics of the direct billing relationship between the state

⁹ Denali need not draft an original rule from scratch. Rather, Denali could potentially incorporate by reference another agency's existing CFR common rule as of a particular point in time.

and the contractor. And the grant administrator could have reinforced this had she been included telephonically in a post-award conference between the tribe and its contractor.

The state's review of a single construction contract for \$765,000+ would have been a reasonable expectation within the \$15,300 that the state charged Denali for administration of Port Graham's sub-award. The state government employs numerous engineers and construction managers that should be available to assist the grant administrator with a brief technical review as needed.

Recommendation: Denali should include a grant condition that requires the monitoring agency to review contracts that will document major payments to vendors.

3. Missing from the monitoring: site visits

A key monitoring safeguard is periodic site visits to directly confirm implementation of the grant. Though we found that this project was successfully completed, the remoteness of many Denali projects leaves some risk that virtual, photographic, or narrative reporting will not fully reflect the reality of how the funding is used.

However, the state's monitoring did not include any site visits to Port Graham. And Denali's grant conditions did not require it.

OIG's visit appears to be the first time that any Denali official has inspected the new facility. OIG observed that construction was consistent with the architect's floor plan, the sub-award's terms, and the photos submitted to the state with progress reports.

While Port Graham's building was successfully constructed, site visits are a key safeguard for detecting any problems at an early stage. The above difficulty in verifying the contractor's work constituted a red flag that should have triggered some state visits to the project site.

We appreciate that the state's grant manager was stationed in Fairbanks, which is 400 miles north of Port Graham. But her state department has a "local government specialist" who works out of Anchorage to serve communities on the Kenai Peninsula. Several site visits from this latter official would have been reasonable for the \$15,300 that the state charged Denali for administering Port Graham's sub-award.

Recommendation: Denali should include a grant condition that requires site visits at specified intervals from some representative of the involved state department.

4. Missing from the monitoring: review of annual CPA firm audits

A key monitoring safeguard is the grant administrator's review of the annual financial audits that sub-awardees must obtain from a CPA firm when their annual federal funding reaches \$500,000.

For the past 12 years, the tribe at Port Graham has obtained an annual audit of its federal funding from the same CPA firm. And the firm has consistently issued the tribe an "unqualified opinion" over that time period.

The tribe's audited financial statements for 2004 and 2005 note that Denali awarded a \$765,000 grant under its "multi-use facilities program." The addition of a depreciable capital asset valued at \$765,000 is shown in the 2005 financial statements (the year the building was completed and placed in service). And the CPA didn't note any problems concerning Denali's grant (no "findings").

However, OIG notes that the Denali-funded expenditures shown in these audits for 2004 (\$561,483) and 2005 (\$84,312) together total \$119,205 less than the \$765,000 that the state's records indicate it sent the tribe. There are a variety of possible explanations for this apparent difference of over \$100,000, but the state's grant administrator didn't notice it — and didn't investigate it — because she didn't analyze the annual audits issued by the tribe's CPA firm.

In fact, the state's grant administrator indicated to OIG that her unit lacks the expertise to review the annual audit reports issued by CPA firms. This is unfortunate since a clear summary of the tribe's audits for the past 12 years appears on a well-known public website offered by the federal system.¹⁰ Further, the public website for the state's own "single audit coordinator"¹¹ indicates that her office has received the tribe's audit reports of federal funding for the years 1999 to 2006. An annual phone call by the grant administrator to this latter state official would seem a valuable monitoring step. We also note that the "local government specialists" and RUBA advisors in the grant administrator's department have financial skills that may be helpful in analyzing sub-awardee audits.

The state's review of sub-awardees' audit reports was a requirement of Denali's grant agreement, where the state committed to the requirements of OMB Circular A-133 as a condition of receiving Denali's money. Section 400(d) of that rule requires that the state monitor the results of audits that CPAs perform on federal funding that the state passes through to others:

A pass-through entity shall perform the following for the Federal awards it makes

(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

(4) Ensure that subrecipients expending \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.

(5) Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.

¹⁰ See <http://harvester.census.gov/fac/>.

¹¹ See <http://fin.admin.state.ak.us/dof/ssa/otherinfo.jsp>.

(6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records. . .

In other words, the monitoring of sub-awardee audits is part of the state's responsibility in dispensing Denali's money. The state's grant administrator can't effectively accomplish this unless she analyzes the annual audit reports.

Analysis of the two audit reports for 2004-2005 was a reasonable expectation for the \$15,300 that the state charged Denali for administering Port Graham's sub-award.

Recommendation: Denali should require that the state's grant administrator, per OMB Circular A-133 section 400(d), resolve the \$119,205 reporting uncertainty discussed above.

Recommendation: Denali should include a grant condition that requires the monitoring agency to implement an internal procedure for its annual review of a sub-awardee's audit report.

5. Missing from the monitoring: fire marshal approval

Construction work on public buildings cannot begin until the state fire marshal has approved the plans. While the sub-award funds Port Graham's fire station, we ironically did not see the fire marshal's approval in the state's file (though the state's grant administrator obtained a copy at our request). The grant administrator correctly noted that monitoring for fire marshal approval was not a condition of Denali's grant to the state.

The fire marshal's linkage to Denali grants is important at several levels that make approval more than just another bureaucratic hurdle.

Destruction of public buildings by fire is now unusual in the Lower 48, where running water and sprinkler systems are the expected norm. But such tragedies are still too common in rural Alaska. At least three of the 12 funded multi-purpose facilities serve uses displaced by burned buildings. Port Graham's largest building, its fish cannery, burned down in 1960 and again in 1998. Also, summer wildfires are common on Alaska's Kenai Peninsula where Port Graham is located.

From the perspective of managing financial risks, destroyed public buildings often trigger replacement at public expense. Further, the state has committed to review public construction plans for fire prevention, and any neglected review may thus subject the state to liability.¹² While the federal government is generally not liable for grantees' mistakes, suits against grantees may raise the disruptive issue as to whether Denali's grants can be charged for grantees' defense costs and court judgments.

Both metaphorically and literally, it's obviously better to prevent fires than to put them out.

Recommendation: Denali should include an explicit condition in its grants that the monitoring agency will document the fire marshal's plan approval before construction starts.

¹² See *Angnabooguk v. State*, 26 P.3d 447, 453 n.24 (Alaska 2001); *R.E. v. State*, 878 P.2d 1341 (Alaska 1994).

6. *Missing from the monitoring:*
Long-term public notice of facility's status

Federal construction grants such as this one carry an implied legal promise (continuing federal interest) that the resulting facility will be used for its assumed public purpose. A key monitoring safeguard is long-term notice to the community of the property's restricted status.

Denali's grant agreement with the state includes a 165-word provision that details a particular sign that Denali expects will be displayed on each completed building. Like the monuments placed by land surveyors, the colorful sign is intended to put the public on perpetual notice that the building was financed by a Denali grant.¹³

The tribal chief at Port Graham wrote Denali, stating that "*[t]he facility is scheduled to be completed by March 31, 2005 and the sign will be installed on the exterior of the front of the building.*"

However, during OIG's inspection, we noted that Denali's sign was less than prominently displayed on the building. It was on the back of the building, rather than facing the street. This was no new development, though. One monitoring photo that the state sent Denali at completion clearly shows the sign by the back door.¹⁴

To the extent that the 165 words of the grant provision reflect true concern,¹⁵ the sign's potential viewers at Port Graham seem limited to the trees in the woods and, ironically, an old nearby truck bearing a federal government license plate from some prior life. And, in contrast, we noted a metal storage container (connex) with street-side signage that unquestionably credits a senator and others for funding its contents.

Unlike the other monitoring safeguards discussed above, Denali's grant agreement explicitly absolves the state from any responsibility for installing the sign. The state commits only to alert sub-awardees of Denali's expectation.

While OIG will leave it to Denali to pick its sign battles with Port Graham and others, the issue is symptomatic of a larger one that requires attention. Publicly-recorded land records should include an agreement with the sub-awardee as to the range of future permissible uses for a facility. Some latitude for eventual unanticipated public uses may be acceptable to Denali, as well as some time frame of concern that falls short of perpetuity. In other words, there would be seem to be some point short of forever when a building has fully served out its public life.

¹³ The popular History Channel television program, *Tougher in Alaska*, has a "Frozen Freeway" episode about the challenge of using the frozen Kuskokwim River to truck fuel to a Denali-funded tank farm at Kwethluk, Alaska. Careful viewers will vaguely see the required Denali signage on the tank farm's fencing.

¹⁴ See the photos submitted April 19, 2005 for this facility in the online public database of Denali projects at www.denali.gov.

¹⁵ Denali is hardly the first representative of a national government to be "sign challenged" in attempting to give the world notice of its property rights around Port Graham. In the 1700s, Russian explorers established a nearby trading post and buried a metal "possession plate" that remains an unrecovered holy grail of Alaska history. The tribe's chief remembers a visiting Russian historian who searched in vain for it about 15 years ago, proving again that Western bureaucracies are often better at preserving their records than their public works. See Mary Foster and Steve Henrikson, *Symbols of Russian America: Imperial Crests & Possession Plates in North America*, Technical Paper No. 5 (Juneau: Alaska State Museum, April 1995), page 6.

For instance, rigidly insisting that Port Graham must always use its building as a police station is probably unrealistic given that the tribe doesn't have a local police force. On one hand, the tribe's eventual use for education, a library, a teen center, or a museum (merely examples) would seem consistent with the original spirit of the "multi-use" program. On the other, simply allowing a private individual to use it for a home or business would not. Gifts or abandonment of funded facilities pose similar issues.

But our point is only that Denali needs to explicitly put the public on notice of the boundaries for the agency's continuing federal interest (both duration and type of use) in the land records associated with a funded facility.

Recommendation: Denali should include a grant condition for publicly recording a Notice of Federal Interest in the land records for a funded facility. This notice should define the parameters of permissible use over time — and the solution for an unneeded, misused, or abandoned building. For instance, a facility's ownership could by advance agreement revert to the local school district if all permitted use was discontinued within the prescribed time frame. Or Denali could agree in advance to release its federal interest after some years have elapsed.

One potential model for Denali's grant condition is the detailed OMB rule at 2 CFR 215.32 that applies to federal funding for universities, hospitals, and nonprofits. Denali may wish to follow the approach of other federal agencies and issue a grants management "common rule" in the Code of Federal Regulations.¹⁶ Like other agencies, Denali could also issue its own "compliance supplement" with expected steps for a grant's audit under OMB Circular A-133.

COMMENT

The Alutiiq name for this scenic settlement is Paluwik, which one archeologist has translated as "where the people are sad." But the tribal chief and postmaster assure us that a more correct translation would refer to the frequently overcast weather rather than the disposition of the residents.

Nevertheless, there are certainly reasons for this settlement to be very concerned about its future. Less than half of the 300 members of the Port Graham tribe still live there (pop. now \approx 135). And the chief noted that its elders are dying of cancer as we walked through the tribe's cemetery.

The settlement has always had some form of Western school since one opened in a pool hall back in 1931. However, the current five-classroom school is down to only 14 students (with 10 being the critical threshold for continued state funding).

For a century, the economic core of Port Graham has been its fish cannery. The cannery's main plant was destroyed by fire in 1960 and again in 1998. The tribe constructed a modern \$4.5 million replacement plant (\approx 15,000 square feet) in 1999 that unfortunately became idle by 2001. Seventy workers worked there during the peak of the new plant's short life.

¹⁶ Denali need not draft an original rule from scratch. Rather, Denali could potentially incorporate by reference another agency's existing CFR common rule as of a particular point in time.

In 2003, Denali provided \$29,695 for a feasibility study of options for reopening the cannery.¹⁷ The study discussed various seafood-related possibilities, but Port Graham's dominant facility remains vacant and closed to this day.

The national health care debate suggests a potential retooling of the idle cannery that the tribe may care to consider as an economic opportunity. Consumer options for non-traditional (alternative) medical treatments are increasingly popular, marketed, and lucrative in the Lower 48.

Twenty years ago, Robert Fortune MD drew on his quarter-century with the Indian Health Service and authored his extensive catalog in *Alaska Medicine* entitled "The Use of Medicinal Plants by the Alaska Natives."¹⁸ The National Park Service also published *Tanaina Plantlore* detailing such plants used by the tribes of southcentral Alaska.¹⁹

Government programs have since continued a serious look at these remedies. The Alaska Native Tribal Health Consortium markets online its *Traditional Food Guide for Alaska Native Cancer Survivors*.²⁰ The University of Alaska has published an extensive study, *Medicinal Flora of the Alaska Natives*.²¹ And next year the state's Division of Agriculture plans to open its public Ethnobotany Garden at the Plant Materials Center in Palmer, which will display tribal plants "traditionally and presently used for food, medicine, and other uses."²²

The small tribe at Port Graham has a long history with plant remedies, which the tribe continues to actively use today as a medical option. This was documented in detail in the 1991 Pratt Museum study, *English Bay and Port Graham Alutiiq Plantlore*.²³ And this research drew upon an earlier oral history project jointly conducted by Port Graham's students, teachers, and elders.²⁴

Packaged herbal remedies from the rain forests of Alaska may be attractive to the national chains that serve this popular niche market in the Lower 48. Port Graham has hourly air freight service to Homer, which is connected by road to the Anchorage airport (one of the busiest air cargo hubs in the nation). The combination of small size, light weight, non-perishable, high markup, and Internet access would seem to support feasible distribution logistics.

¹⁷ Denali issued grant no. 99-DC-2002-E2 to the state, who issued a sub-award to Port Graham's tribe. The tribe arranged for Indian Valley International to issue *A Feasibility Report for a Fish & Meat Processing Venture [at] Port Graham, Alaska* (Sept. 30, 2003). This report is available online at www.commerce.state.ak.us/dca/plans/PortGraham-FS-2003.pdf.

¹⁸ *Alaska Medicine*, vol. 30, no. 6, November-December 1988, pages 185-226.

¹⁹ Priscilla Russell Kari, *Tanaina Plantlore*, 4th ed., 1995.

²⁰ Alaska Native Tribal Health Consortium, Office of Alaska Native Health Research, Cancer Program (Anchorage, 2008). See www.anthc.org/chs/crs/foodguide.cfm.

²¹ Ann Garibaldi, *Medicinal Flora of the Alaska Natives* (University of Alaska Anchorage, July 1999), now available online at http://aknhp.uaa.alaska.edu/traditional_use/Med_Flora_AK_Natives.pdf.

²² See the Alaska Plant Materials Center's 2008 Annual Report, page 16, at <http://dnr.alaska.gov/ag/AnnualReport2008.pdf>.

²³ Priscilla N. Russell, *English Bay and Port Graham Alutiiq Plantlore* (Homer, Alaska: Pratt Museum, 1991).

²⁴ *Fireweed Cillqaq: Life and Times in Port Graham* (Kenai Peninsula School District, 1981), pages 66-71, 81-75.

If the tribe is interested in exploring this suggestion further, it may wish to ask the national office of the USDA Cooperative Extension Service to detail a specialist under the federal Intergovernmental Personnel Act.²⁵

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²⁵ See 5 USC §§ 3371(2)(C), 3372, 3373.